REMARKS:

Claims 1-9, 11, 13-22, 24, 26-27 and 29-30 were presented for examination and were pending in this application. In an Official Action dated April 20, 2007, claims 1-9, 11, 13-22, 24, 26-27 and 29-30 were rejected. Claims 1-9, 11, 13-22, 24, 26-27 and 29-30 have been cancelled herein and new claims 31-45 have been added. Claims 10, 12, 23, 25, and 28 were previously canceled. Applicants now request reconsideration and allowance of pending claims 31-45.

Summary of Substance of Interview

On September 4, 2007, Applicants' representatives, Jae Won Song (Reg. No. 59,070) and Nikhil Iyengar (Reg. No. 60,910) had a telephone interview with Examiner Swearingen. Applicants' representative explained the operation of the inventions of new claims 31, 38, and 45, and discussed the Dietz reference. The Examiner agreed that the claims would likely overcome the 35 U.S.C. § 112 rejections of the previous claims. No specific agreement was made one way or the other regarding the rejections under 35 USC §102 and 35 USC §103, but the Examiner invited Applicants to file a written response to the Office Action

Response to Rejection Under 35 USC § 112, Paragraph 1

Claims 1-9, 11, 13-22, 24, 26-27 and 29-30 were rejected for failing to satisfy the written description requirement for failing to describe in the specification how validity is determined for an application verb or state machine, what validity consists of, or how data from a packet is separated into multiple flows. Claims 1-9, 11, 13-22, 24, 26-27 and 29-30 are canceled herein, and thus the rejection of these claims is overcome. Additionally, new claims 31-45 do not recite the validity of an application verb, the validity of a state machine, or separation into multiple flows.

Claims 1-9, 11, 13-22, 24, 26-27 and 29-30 were rejected for failing to satisfy the enablement requirement because of the language in claims 1, 14, and 27 referring to "... updating the state machine, determining whether the state machine is in a valid state ..." Claims 1-9, 11, 13-22, 24, 26-27 and 29-30 are canceled herein, and thus the rejection of these claims is overcome. Additionally, new claims 31-45 do not recite this language.

Response to Rejection Under 35 USC § 112, Paragraph 2

Claims 1-9, 11, 13-22, 24, 26-27, and 29-30 were rejected as being indefinite. The Office Action states that "one of ordinary skill in the art would be unable to ascertain what was used as the benchmark to determine validity of an application verb." Claims 1-9, 11, 13-22, 24, 26-27 and 29-30 are canceled herein, and thus the rejection of these claims is overcome. Additionally, new claims 31-45 do not recite the validity of an application verb.

Response to Rejection Under 35 USC 102(e)

Claims 1-9, 11, 13-22, 24, 26-27, and 29-30 were rejected under 35 USC §102(e) as allegedly being anticipated by U.S. Patent No. 6,839,751 ("Dietz"). Claims 1-9, 11, 13-22, 24, 26-27 and 29-30 are canceled herein, and thus the rejection of these claims is overcome.

Additionally, the inventions claimed in new claims 31-45 are not anticipated by Dietz. As amended, independent claim 31 recites a method for calculating application verb response times, comprising:

> receiving a data packet containing application-layer data related to a
> network application;
> identifying a portion of an application verb in the data packet, the
> application verb being a specific **application-layer transaction
> within the application**;
> updating a state machine based on the portion of the application verb,
> the state machine comprising a current state of the application;

determining whether the portion of the application verb represents a
completed response of the application verb based on the updated
state machine, a completed response being a response of the
application verb with no further response of the application verb
being expected; and

responsive to determining that the portion of the application verb
represents a completed response of the application verb,
**calculating a response time associated with the application
verb between a request of the application verb and the
completed response of the application verb**.

(emphasis added)

As can be seen, the claim recites identifying a portion of an application verb in a data

packet, the application verb being a specific application-layer transaction within the

application. For example, GET is an application verb (within the HTTP application) for

retrieving a resource such as the text of a web page. The GET application verb has request

and response portions. It is determined whether the portion of the application verb represents

a completed response of the application verb and, if so, a response time between the request

of the application verb and the completed response of the application verb is calculated.

Support in the specification can be found, for example, on pg. 11, ln. 7 – pg.12, ln. 2, on pg.

15, ln. 19 – pg. 16, ln. 11, and in figures 5B, 6A, 8, 9, and 11. The claimed invention

beneficially allows for calculating the response times of application verbs to determine the

performance of an application over the network for diagnostic or other purposes.

Independent claims 38 and 45 contain language similar to claim 31. All arguments

regarding claim 31 presented below apply equally to claims 38 and 45.

The invention of claim 31 is not disclosed by Dietz. Dietz discloses a method for

analyzing packet flows, including determining statistical metrics of packet arrival times. A

flow in Dietz is determined merely by the packet source address, destination addresses,

protocol (or application), and other transport layer information in the packet (Dietz, col. 10,

lines 23-32). Dietz does not disclose calculating a response time associated with a specific application layer-transaction within the application, as in the claimed invention. Accordingly, Dietz does not disclose "responsive to determining that the portion of the application verb represents a completed response of the application verb, calculating a response time associated with the application verb between a request of the application verb and the completed response of the application verb."

Based on the above remarks, Applicants respectfully submit that for at least these reasons, claims 31, 38, and 45, and dependent claims 32-37 and 39-44 are patentably distinguishable over Dietz.

Response to Rejection Under 35 USC 103(a)

Claims 7, 20, and 29 were rejected under 35 USC §103(a) as allegedly being obvious over Dietz. Claims 7, 20, and 29 are canceled herein, and thus the rejection of these claims is overcome.

Conclusion

In summary, it is respectfully submitted that all pending claims 31-45 are in condition for allowance. Favorable action is solicited.

Respectfully Submitted,
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